

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of July 9, 2008 (Office Action). Claims 1-20 are currently pending. As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

In the Office Action, Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application 2007/0033261 to Wagner, *et al.* (hereinafter Wagner), in view of U.S. Published Patent Application 2005/0058108 to Ekberg, *et al.* (hereinafter Ekberg). Applicants respectfully assert that both Wagner and Ekberg are disqualified as prior art against claims 1-20. Ekberg has an effective date of September 16, 2003. Wagner, even assuming that the filing date of the International Application from which it claims to be a continuation-in-part of is the proper date, has at best an effective date of May 16, 2003. As pointed out in the attached declarations of Desai, Varun and Helal, invention of the subject matter of these claims occurred prior to the effective date of either of these references and at least as early as April 9, 2003. Applicants respectfully request that this rejection be withdrawn.

### **CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Appln No. 10/790,371  
Amendment dated October 9, 2008  
Reply to Office Action of July 9, 2008  
Docket No. 5853-426

Respectfully submitted,

AKERMAN SENTERFITT

Date: October 9, 2008

/Andrew C. Gust/  
Andrew C. Gust, Registration No. 47,620  
Customer No. 30448  
Post Office Box 3188  
West Palm Beach, FL 33402-3188  
Telephone: (561) 653-5000